

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DENNIS UNDERWOOD,

Plaintiff,

v.

CLARK COUNTY BOARD OF
COMMISSIONERS, *et al.*,

Defendants.

Case No. C07-5217RJB

ORDER DENYING PLAINTIFF'S
MOTION TO EXTEND DISCOVERY
AND MOTION TO AMEND THE
COMPLAINT

This 42 U.S.C. § 1983 Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local Magistrates' Rules MJR 1, MJR 3, and MJR 4. Before the court are plaintiff's motions for an extension of time to conduct discovery and for leave to file an amended complaint (Dkt # 47 and 48). Some of the named defendants in this action filed an answer on July 23, 2007, (Dkt # 19). A scheduling order was then entered (Dkt # 20). The scheduling order set a discovery cut off date of January 25, 2008.

Plaintiff does not show that either of his motions were served on the opposing party or counsel. This in and of itself requires the motions be **DENIED**.

On the merits plaintiff fares no better. Plaintiff has not shown good cause for any extension of that time period. Plaintiff has not informed the court of what steps he took to obtain discovery or

1 why an extension is warranted in this case. Plaintiff merely argues there are no books on discovery
2 in the law library (Dkt. # 47). The motion for an extension of the discovery deadline is **DENIED**.

3 Plaintiff's motion to amend the complaint is the third attempt by plaintiff to amend the
4 complaint in this action. The original complaint names the Clark County Board of Commissioners,
5 the Jail Administrator, and the County itself (Dkt # 4). The allegation is that the law library is
6 inadequate and lack of access to the law library damaged plaintiff's criminal defense.

7 When plaintiff first filed a motion to amend he did not provide a copy of any proposed
8 amended complaint along with his motion. Plaintiff did explain that he wished to add a new claim
9 alleging that the prosecutor in his criminal case covered the microphone at some point during the
10 trial so his allegedly improper comments on the evidence would not be recorded (Dkt. # 29, page 1
11 and 2). Plaintiff claims the "transcriptionist" has falsified the record and he sought to name her as an
12 additional defendant (Dkt. # 29). The motion was denied as plaintiff was attempting to call into
13 question the propriety of his conviction (Dkt # 32). Plaintiff then filed a motion for reconsideration
14 (Dkt # 36). The motion for reconsideration was denied (Dkt # 41).

15 Now, after the time to conduct discovery in the action has elapsed, plaintiff again seeks to
16 amend the complaint. The amended complaint provides greater detail and now names the County
17 Commissioners by name, but, the complaint is not timely. Plaintiff's motion to amend the complaint
18 is **DENIED**.

19 The Clerk of Court is directed to send a copy of this Order to plaintiff, and to counsel for
20 defendants.

21
22 DATED this 13 day of February, 2008.

23
24 /S/ J. Kelley Arnold

25 J. Kelley Arnold

26 United States Magistrate Judge
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